

**CHEROKEE COUNTY GENERAL SESSIONS COURT
GAFFNEY, SOUTH CAROLINA**

**State Auditor's Report
June 30, 2008**

**CHEROKEE COUNTY GENERAL SESSIONS COURT
GAFFNEY, SOUTH CAROLINA**

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State of South Carolina



Office of the State Auditor

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RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

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January 6, 2009

The Honorable Mark Sanford, Governor
State of South Carolina
Columbia, South Carolina

The Honorable Brandy W. McBee, Clerk of Court
Cherokee County
Gaffney, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Cherokee County General Sessions Court System for the period July 1, 2007 through June 30, 2008, was issued by Cline Brandt Kochenower & Co., P.A., Certified Public Accountants, under contract with the South Carolina Office of the State Auditor.

If you have any questions regarding this report, please let us know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. Gilbert Jr.", written in a cursive style.

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/cwc

Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

We have performed the procedures described below which were agreed to by the South Carolina Office of the State Auditor solely to assist these users in evaluating the performance of the Cherokee County General Sessions Court System and to assist the South Carolina Office of the State Auditor in complying with the 2007 - 2008 General Appropriations Act (H. 3620) Section 72.75. Brandy W. McBee, Clerk of Court for the Cherokee County General Sessions Court System is responsible for compliance with the requirements for the General Sessions Court reporting and the South Carolina Office of the State Auditor is responsible for compliance with the requirements of the 2007 - 2008 General Appropriations Act (H. 3620) Section 72.75. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and associated findings are as follows:

1. TIMELY REPORTING BY THE CLERK OF COURT

- We researched South Carolina Code of Laws Section 14-17-750 to determine the definition of timely reporting with respect to the Clerk of Court's responsibility for reporting fines, fees and assessments to the County Treasurer.
- We inquired of the South Carolina Judicial Department to determine their requirements for both the manner in which partial pay fines and fees are to be allocated and the timing of the report and remittance submissions by the Clerk and the Treasurer.
- We inquired of the Clerk of Court and County Treasurer to gain an understanding of their policy for ensuring timely reporting and to determine how the Treasurer specifically documents timeliness.
- We inspected documentation, including the Clerk of Court Remittance Forms or equivalents for the months of July 1, 2007 through June 30, 2008 to determine if the Clerk of Court submitted the reports to the County Treasurer in accordance with the law.

Our finding is reported under "TIMELY REPORTING BY THE CLERK OF COURT" in the Accountants' Comments section of this report.

2. TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY

- We traced each month's reporting by the Clerk of Court to the County Treasurer's Office and to the County's general ledger accounts for the assessments (Sections 14-1-206(A), (B) and (D)) and Victim Assistance surcharge (Section 14-1-211) for the period July 1, 2007 to June 30, 2008.
- We compared the amounts reported on the Clerk of Court Remittance Forms or equivalents to the Clerk of Court's software system-generated report summaries for three judgmentally determined test months. We tested the system-generated reports for compliance with various laws including Section 35.11 of the General Appropriations Act for the fiscal year 2007 - 2008 and with South Carolina Judicial Department training instructions and interpretations.
- We judgmentally selected and compared individual fine and assessment amounts recorded in the Clerk of Court's software system-generated detail reports to the Judicial Department guidelines' range for the offense code to see if the fine and assessment were within the minimum and maximum range.

Our findings are reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY" in the Accountants' Comments section of this report.

3. PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

- We inquired as to the format determined by County Council and local policy for record keeping as it relates to fines and assessments in accordance with Section 14-1-206(E)(4).
- We compared the fiscal year-ended June 30, 2007 audited Victim Assistance fund balance with all adjustments to the fund balance shown in the Supplemental Schedule of Fines and Assessments on page 102 of the audited financial statement and to the beginning fund balance as adjusted in that fund for fiscal year 2008.
- We judgmentally selected a sample of Victim Assistance Fund reimbursable expenditures and verified that these expenditures were in compliance with Section 14-1-206(E) and Section 14-1-211(B).

Our finding is reported under "PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING" in the Accountants' Comments section of this report.

4. TIMELY ACCURATE REPORTING TO THE STATE TREASURER

- We vouched the amounts reported in the South Carolina State Treasurer's Revenue Remittance Forms to Clerk of Court Remittance Forms or equivalents for the period July 1, 2007 to June 30, 2008.
- We scanned the South Carolina State Treasurer's Revenue Remittance Forms for timely filing in accordance with Section 14-1-206(B).

4. TIMELY ACCURATE REPORTING TO THE STATE TREASURER, Continued

- We traced amounts recorded in the County's financial statement Supplemental Schedule of Fines and Assessments on page 102 of the year ended June 30, 2007 report related to fines and assessments revenues reporting in accordance with Section 14-1-206(E) to supporting schedules used in the audit to comply with Section 14-1-206(E).
- We traced and agreed amounts in the supporting schedules to the Clerk of Court Remittance Forms or South Carolina State Treasurer's Revenue Remittance Forms.

Our findings are reported under "TIMELY ACCURATE REPORTING TO THE STATE TREASURER" in the Accountants' Comments section of this report.

5. STATUS OF PRIOR FINDINGS

- We tested the County's responses to the findings of the State Auditor's Report on Agreed-upon Procedures for the procedures period April 30, 2006, and dated January 9, 2007.
- We contacted Case Management Systems regarding the allocation of installment payments and the reimbursement for overcharged amounts due to defendants for DUI violations. Case Management System supervised the making all of the corrections.
- Using the corrected CMS disbursement report provided by the County, we verified the corrections of the installment payments and the refunds to defendants.

The results of our procedures disclosed that the County had over reported amounts due to the State and Victim Assistance fund. See Attachment 1 in the Accountants' Comments section of this report for further details.

We were not engaged to, and did not conduct an audit the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the twelve months ended June 30, 2008 and, furthermore, we were not engaged to express an opinion on the effectiveness of the internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Had we performed additional procedures other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Cherokee County Council, County Clerk of Court, County Treasurer, State Treasurer, State Office of Victim Assistance, Chief Justice and the Office of the State Auditor and is not intended to be and should not be used by anyone other than these specified parties.



October 9, 2008

ACCOUNTANTS' COMMENTS

CHEROKEE COUNTY GENERAL SESSIONS COURT
CHEROKEE, SOUTH CAROLINA
State Auditor's Report
June 30, 2008

VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS

Management of the entity is responsible for establishing and maintaining internal controls to ensure compliance with State Laws, Rules or Regulations. The procedures agreed to by the entity require that we plan and perform the engagement to determine whether any violations of State Laws, Rules or Regulations occurred.

The conditions described in this section have been identified as violations of State Laws, Rules or Regulations.

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TIMELY REPORTING BY THE CLERK OF COURT

TIMELY FILING

CONDITION: The Clerk of Court submitted one of twelve monthly remittance forms late to the County Treasurer during the procedures period.

CRITERIA: South Carolina Code of Laws Section 14-17-750 states "Every clerk of the court is required, on the first Wednesday in each month or within ten days thereafter, to make in writing to the auditor and treasurer of his county a full and accurate statement of all moneys collected"

CAUSE: The Clerk of Court did not meet the filing deadline because the County was converting from one purchased court software system to the State CMS system.

EFFECT: The Clerk of Court did not submit reports timely as defined by Section 14-17-750.

AUDITORS' RECOMMENDATION: We recommend the Clerk of Court implement procedures to ensure timely submission. We also recommend that the Clerk of Court notify all affected parties whenever filing deadlines will not be met.

TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY

INSTALLMENT PAYMENTS ALLOCATION

CONDITION 1: Through April 2008 the Clerk of Court's computer system was not allocating fines paid on an installment basis ratably to all fine, assessment and surcharge categories as required. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated January 9, 2007.

CRITERIA: The Judicial Department memo dated June 29, 2007 Section A.10 states "When the fine and assessment are paid in installments, Section 35.11 of the Temporary Provisions of the General Appropriations Act suspends Section 14-1-209(B) for the fiscal year 2007 - 2008 and requires that 51.80722% of each installment be treated as a payment towards the assessment. The remaining 48.192771% is treated as a payment towards the fine. The fine amount must be further divided, with 56% of the amount being retained by the county, and 44% being remitted to the state. The assessment amount must further be divided, with 64.65% being transmitted to the state, and 35.35% being retained by the county for victims' services. Prior to making these computations, you must determine what other assessments may apply (conviction surcharge, DUI assessments, etc.). Those charges must be collected separately and not included in the percentage splits explained above."

CAUSE: The Clerk's computer system was not programmed to properly allocate payments.

EFFECT: The County's installment payment allocations were not in compliance with the Judicial Department's guidance in the memo related to Section 35.11 of the Temporary Provisions of the General Appropriations Act for the fiscal year 2007-2008 prior to May 2008.

AUDITORS' RECOMMENDATION: Because the County has obtained and implemented a new, State-provided software system that properly allocates partial payments, no recommendation is needed.

CONDITION 2: Through April 2008 the Clerk of Court was not allocating collections to the Indigent Defense Fee in advance of all other fines and fees when the violator paid the fine on an installment basis.

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CRITERIA: Proviso 35.13 of the 2007-2008 General Appropriations Act states, "Every person placed on probation on or after July 1, 2003, who was represented by a public defender or appointed counsel, shall be assessed a fee of five hundred dollars. The revenue generated from this fee must be collected by the clerk of court and sent on a monthly basis to the Office of Indigent Defense to be divided between the Conflict Fund and the Defense of Indigents/Per Capita Fund administered by that office. However, if a defendant fails to pay this fee, this failure alone is not sufficient basis for incarceration for a probation violation. This assessment shall be collected and paid over before any other fees."

CAUSE: The automated system used by the Clerk had tables that must be programmed at the local level to properly allocate payments. These tables had not been properly set up.

EFFECT: Indigent Defense fees were not collected and remitted to the Office of Indigent Defense in accordance with the law. The fee should be collected and paid before any other fine or assessment is paid.

AUDITORS' RECOMMENDATION: Because the County has obtained and implemented a new, State-provided software system that properly allocates partial payments, no recommendation is needed.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY FILING

CONDITION: Two of the State Treasurer's Remittance Reports for the procedures period July 1, 2007 through June 30, 2008 were not filed timely. These two reports were submitted 2 and 33 days late. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated January 9, 2007.

CRITERIA: South Carolina Code of Laws Sections 14-1-206 (B) states "The county treasurer must remit ... on a monthly basis by the fifteenth day of each month...."

CAUSE: The County has not developed procedures to ensure that reports are submitted timely.

EFFECT: As a result the County Treasurer was late in filing the report twice.

AUDITORS' RECOMMENDATION: The County should comply with State law.

SUPPLEMENTAL SCHEDULE OF FINES AND ASSESSMENTS

CONDITION: The County's audited financial statement for the fiscal year ended June 30, 2007 did not include the balance carried forward or the Victim Assistance expenditure. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated January 9, 2007.

CRITERIA: South Carolina Code of Laws Section 14-1-206(E) states "To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected ... the annual independent external audit ... must include ...a supplementary schedule detailing all fines and assessments collected"

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CAUSE: The County relied on the independent auditor to include all required information on the schedule.

EFFECT: The County did not comply with the law.

AUDITORS' RECOMMENDATION: The County is responsible for the schedule, and therefore should ensure the schedule complies with State law.

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SECTION B - OTHER WEAKNESSES NOT CONSIDERED MATERIAL

The conditions described in this section have been identified as weaknesses subject to correction or improvement but they are not considered violations of State Laws, Rules or Regulations.

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State Auditor's Report, Continued
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TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY

IMPROPER INPUT OF VIOLATION

CONDITION: An additional \$100 was assessed and in some cases collected from defendants for Driving Under the Influence [**DUI**] violations.

CRITERIA: South Carolina Code of Laws Section 56-5-2940 states "A person who violates a provision of Section 56-5-2930 or 56-5-2933, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished: (1) by a fine of four hundred dollars"

CAUSE: According to the CMS software training guidance, the Clerk should input the fine as \$300 and a \$100 pullout. The Clerk input the violations into the computer incorrectly.

EFFECT: Defendants were overcharged \$100 for DUI violations.

AUDITORS' RECOMMENDATION: We recommend the County reimburse the overcharged amount to the defendants. See Attachment 1 for further corrections.

PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

CORRECTLY ALLOCATING VICTIM ASSISTANCE EXPENSES

CONDITION: Because an account coding error was made, the County Treasurer charged Victim Assistance funds for a purchase that was not an allowable expense of the program.

CRITERIA: South Carolina Code of Laws Section 14-1-206 (D) states "These funds must be appropriated for the exclusive purpose of providing victim services...."

CAUSE: The accounting department charged this to the Victim Assistance fund in error.

EFFECT: The accounting for Victim Assistance expenses is incorrect.

AUDITORS' RECOMMENDATION: We recommend the accounting department reimburse the Victim Assistance fund for this purchase.

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SECTION C –STATUS OF PRIOR FINDINGS

STATUS OF PRIOR FINDINGS

During the current engagement, we reviewed the status of corrective action taken on each of the findings reported in the Accountant's Comments section of the State Auditor's Report on the Cherokee County General Sessions Court System for the procedures period ended April 30, 2006, and dated January 9, 2007. We determined that the County has taken adequate corrective action on each of the findings except for the following:

- Installment Payments Allocation
- Timely Filing
- Supplemental Schedule of Fines and Assessments

The above findings were repeated for the procedures period ending June 30, 2008.

CHEROKEE COUNTY GENERAL SESSIONS
Schedule of Court Fines and Fees
For the 36 months ended June 30, 2008

Attachment 1

Allocation in Accordance with Judicial Department Memo													
Allocation in Accordance with State Law													
	TOTAL COLLECTIONS	Law Enforement Surcharge	DUI/\$12	DUI/\$100	Drug Surcharge P 33.7	Conviction Surcharge	Fine & Assessment	State Assessment	Victim Services	Fine	DUS PULLOUT	DUI PULLOUT	SLED PULLOUT
Total Corrections	\$ 0.00	-4.55	0.00	-18.17	0.00	0.00	0.00	-39.00	-76.00	0.00	-500.00	600.00	-200.00
Balance Due from Victim Services:	-76.00					0.00			-76.00				
Balance Due from State:	\$ -161.72	-4.55	0.00	-18.17	0.00			-39.00			-500.00	600.00	-200.00
State Treasurer Revenue Remittance Form Line		Y	O	Q	W	FF		AA	DD		M	S	V
Refunds Issued \$1041.69													



Cherokee County Clerk of Court Office

BRANDY W. MCBEE
CLERK OF COURT

POST OFFICE DRAWER 2289
125 E. FLOYD BAKER BLVD
GAFFNEY, SC 29342
PHONE: (864) 487-2571
FAX: (864) 487-2754

December 19, 2008

The Cherokee County Clerk of Court responds as follows:

As to Timely Filing

The Clerk admits to one late filing due to the new Case Management System being installed. The Clerk did submit the report for CMS on time for April of 2008. There were 3 days in April where the old system was used. The 3 days that the old system was used is the report that was submitted late to the State. In the 7 years of being Clerk of Court, I have never submitted a report late to the Cherokee County Treasurer other than this one time.

As to Installment Payments Allocation

Condition 1:

As to the old system, the tables were allocated and programmed by Smith Data. The Clerk of Court had no idea they were not allocated correctly.

Condition 2:

The Clerk of Court had no control of how the system allocated payments in regards to the Indigent Defense Fee. This is done by Computer Programmers with Smith Data. When notified in the last audit that the payments were not allocating correctly, I reported this to Smith Data at which time I was told that the new software was being wrote and Smith Data would install it as soon as the Programmer's finish with it. Smith Data did correct this problem and it was installed in early 2008. The Clerk of Court could not fix this on the local level.

As to Improper Input of Violation

The Clerk of Court and staff misunderstood at time of training how to impute the fine correctly. When imputing a fine that the Judge orders you must reduce the fine amount entered by the amount of pull outs that apply. All Clerk of Court staff has now been properly trained and

understands this procedure. All Defendants that were overcharged received a refund the month of October 2008. Refunds issued totaled \$1,041.69.

***I have addressed all errors reported in the Audit. I worked diligently with the Auditors, Court Administration and Cherokee County Treasurer to get these matters corrected.
Please feel free to contact me, should you have any questions.***

Respectfully submitted,

Brandy W. McBee

***Brandy W. McBee
Cherokee County Clerk of Court***

CHEROKEE COUNTY TREASURER

Deputy Treasurer

Stacie Humphries

Phone: (864) 487-2551

JACKIE W. WILLIAMS

Cherokee County Courthouse

Clerks

Angie Higgins
Angie Wilkie
Shelia Carpenter

Fax: (864) 487-2548

December 19, 2008

Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

The Cherokee County Treasurer respectfully responds:

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY FILING

The audit stated two of the State Treasurer Remittance Reports were not filed timely.

- The Clerk of Court changed software systems during the month of April 2008. Part of the month was on the old system and the other was on the new system. Only the information from the new system was given to the county treasurer for the month. Later it was discovered that the information from the old system was omitted. At that time it was remitted on the June 08 report.
- On the monthly reports to the State Treasurer, I include collections from the Clerk of Court, Probate Court, and Magistrate Court. Due to the change in the system and a personnel change in Chief Magistrate, the magistrate reports were received on Thursday, 6-12-2008. I submitted the report on Monday, 6-16-2008.

As County Treasurer, I will take measures to comply with the law by filing all reports in a timely manner.

SUPPLEMENTAL SCHEDULE OF FINES AND ASSESSMENTS

The audit stated the County's financial statement for the fiscal year ended June 30, 2007 did not include the balance carried forward and the expenditures for Victim Assistance.

- I rely on my auditors to inform me of changes in reporting requirements. On previous financial statements I only reported the collections, I was not aware that the balance carried forward and the expenditures *were* to be on the schedule. I became aware of this after the financial statements were completed.

As County Treasurer, I am now aware of this requirement and I am in compliance with the law beginning with the Financial Statements for year ended 06-30-2008.

PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

CORRECTLY ALLOCATING VICTIM ASSISTANCE EXPENSES

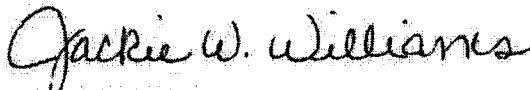
The audit stated an account coding error charged Victim Assistance funds with expenses that were not allowable.

This was a posting error resulting in a charge to the wrong account. The correction has been made and the Victim Assistance fund has been reimbursed.

As County Treasurer. I will stress accuracy in posting and reconcile funds periodically.

Please contact me if you have any questions or comments.

Respectfully submitted,

A handwritten signature in black ink that reads "Jackie W. Williams". The signature is written in a cursive, flowing style.

Jackie W. Williams
Cherokee County Treasurer